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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/051,401

01/18/2002

Robert Wayne Glenn JR.

8401

9592

27752

7590

07/14/2005

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INTELLECTUAL PROPERTY DIVISION  
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EXAMINER

CHANNAVAJALA, LAKSHMI SARADA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/051,401

Applicant(s)

GLENN ET AL

Examiner

Lakshmi S. Channavajjala

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Receipt of amendment and remarks dated 10-21-04 is acknowledged.

Claim 4 has been canceled. Claims 1-3 and 5-11 are pending.

The rejections of previous action (dated 7-21-04) has been maintained:

#### ***Response to Arguments***

Applicant's arguments filed 10-21-04 have been fully considered but they are not persuasive.

Claims 1 and 9-11 as being anticipated by Guskey (US 5,965,113):

Applicants argue that Guskey fails to teach the claimed reactive agent with a cosmetically active functional group. However, applicants' arguments are not persuasive because Guskey teaches anti-perspirant active agent that meets the claimed cosmetically active functional group. Table 2 of Guskey teaches the claimed solvents glycerin and dipropylene glycol. Therefore, the rejection is maintained.

Claims 1-4, 9 and 11 as being anticipated by Luebbe:

Applicants argue that instant claim now recites a reactive agent, which comprises a cosmetically active functional group. It is argued that Luebbe does not teach the composition claimed in the present invention because the ingredients triclosan and perfume of Luebbe does not meet the claimed requirement as stated above.

Applicants' arguments are not found to be persuasive because while instant specification defines reactive agent, the claims are interpreted in light of specification, the disclosure of the specification is not imported into the claims. Further, the present

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limitation "cosmetically active functional group" does not exclude triclosan because triclosan is exemplified in Luebbe in a deodorant formulation, which is nothing but a cosmetic composition.

Claims 1-5 and 9-11 as being anticipated by Park:

Applicants argue that instant claim now recites a reactive agent, which comprises a cosmetically active functional group and that Park does not teach the composition claimed in the present invention. Applicants' arguments are not found to be persuasive because instant claim 5 recites a number of reactive agents that include Urea and thiourea disclosed by Park (Table III and col. 7, lines 35-40). While instant specification defines reactive agent, the claims are interpreted in light of specification, the disclosure of the specification is not imported into the claims. Thus, applicants' mere allegation that Park does not anticipate instant claims is not persuasive.

Claims 1-4, 9 and 11 as being anticipated by Jacquet:

Applicants argue that Jacquet fails to teach the invention in view of the present amendment i.e., a reactive agent, which comprises a cosmetically active functional group. However, applicants' mere allegation that Jacquet does not anticipate instant claims is not persuasive because the reference teaches several examples (col. 7) with cosmetic ingredients that meet the instant claims.

Claims 6-8 are obvious over Jacquet in view of Jacquet in view of Halloran:

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Applicants argue that the combination of references does not establish a prima facie case of obviousness and that the mere fact that the references can be combined does not render the resultant combination obvious unless the prior art suggests the desirability. Applicants argue that Jacquet teaches essentially anhydrous composition while the only example of Halloran contains water. Applicants' arguments are not persuasive because the teachings of prior art are not limited to examples and should be taken as a whole. Both Jacquet and Halloran teach hair composition comprising reducing agents for perming of hair, thus constituting analogous art directed to same field of endeavor. Halloran clearly provides the suggestion that thioglycolamides can be used in place of typical reducing agents for hair, which is incorporated into hair for improved reducing and conditioning of hair. Thus, the motivation to add the compounds of Halloran in the composition of Jacquet comes from the enhanced reduction while simultaneously providing conditioning of hair. A skilled artisan would have expected a hair curling that is at least equal to that produced by typical reducing agents such as thioglycolic acid (Jacquet).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lakshmi S Channavajjala  
Examiner  
Art Unit 1615  
July 5, 2005

THURMAN K. PAGE  
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